

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT A. MACMILLAN,

Plaintiff,

v.

FRANKLIN COUNTY PRISON, et al.,

Defendants.

CIVIL ACTION NO. 3:05-CV-174

(JUDGE CAPUTO)

ORDER

NOW, this 19th day of April, 2005, upon review of Magistrate Judge Mannion's Report and Recommendation (Doc. 12) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

- (1) The Report and Recommendation (Doc. 12) is **ADOPTED**.
- (2) Plaintiff's Complaint (Doc. 1) is **DISMISSED without prejudice to his ability to file a state court negligence action**.
- (3) The Clerk of the Court shall mark this case **CLOSED**.

/s/ A. Richard Caputo

A. Richard Caputo
United States District Judge